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09/608,985 06/30/00 LAATS

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EXAMINER

VIDOVICH, G

ART UNIT

PAPER NUMBER

3727

DATE MAILED:

10/19/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/608,985

Applicant(s)
Laats et al.

Examiner
Gregory Vidovich

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3727



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 31, 2001
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-10, 12, and 16-19 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-10, 12, and 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Jun 30, 2000 is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on Aug 31, 2001 is: a) ☐ approved b) ☒ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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DETAILED ACTION

Drawings

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on August 31, 2000 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of the loop structure, the configuration and location of the aperture, and the configuration and location of the protrusion as is proposed in new figures 9 and 10 and the connection of the device to the strap as is proposed in new figure 11. Applicant's proposal of new figures 9 and 10 is clearly speculative based on the very broad disclosure as originally filed. For example, the protrusion could extend upward from the bottom portion of the loop proximate reference character 70 in figure 10 and protrude through mating apertures in the overlapping strap portions or the protrusion may extend horizontally from the strap portion 110 and through an aperture in the loop. Furthermore, the protrusion and aperture may be configured substantially different than that now proposed by applicant (see, for example, Miller reference applied hereinafter). Applicant clearly has no support in the originally filed application for the proposed illustrations and any proposals to illustrate the claimed subject matter by applicant will be held as introducing new matter. Accordingly, the drawings as originally filed are subject to examination in this Office action. As will be discussed below, applicant's substitute specification has not been entered as a means to reduce confusion in the application.

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2. The drawings as originally filed remain objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter in claims 11, 3-10, 12, and 16-19 must be shown or the feature(s) canceled from the claim(s). **No new matter should be entered.** It is noted that applicant merely appears to some type of loop structure in figures 1-8 wherein each of the figures appears to represent a different ornamentation of exterior appearance of each loop. Applicant's claims are not directed to these ornamental features. As will be discussed below, it is unclear as to what applicant regards as the invention. An ordinary artisan, upon reading the disclosure and claims, would clearly have to speculate as to what applicant intends as the invention.

3. The drawings remain objected to under 37 CFR 1.83(a) because they fail to show a strap, a securing mechanism for the strap, and a complimentary mating structure as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Correction is required.

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Specification

4. The amendment filed in the form of a substitute specification is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. As discussed above, the proposed drawing corrections clearly introduce new matter. The material proposed in the substitute specification which is not supported by the original disclosure is that which makes reference to the proposed drawing corrections which have not been entered. As a means to reduce confusion in the application, the substitute specification filed August 31, 2001 has not been entered and the specification as originally filed is subject to examination.

5. The disclosure as originally filed remains objected to because of the following informalities: it is unclear as to what applicant intends as the invention. Applicant merely broadly sets forth an invention in the disclosure without remotely attempting to illustrate this subject matter. One having ordinary skill in the art would clearly have to speculate as to what applicant intends as the invention. Accordingly, upon inspection of the disclosure, which includes the claims, one having ordinary skill in the art would not clearly understand applicant's invention and would clearly have to speculate as to the structure applicant intends. Appropriate correction is required.

6. If applicant continues to prosecute the application, revision of the specification and drawings to present the application in proper form is required. While an application can be amended to make it clearly understandable, **applicant is reminded that no subject matter can be added that was not disclosed in the application as originally filed.** It is noted that proposed corrections to the

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drawings to properly illustrate what applicant considers as the invention will most likely result in new matter.

Claim Rejections - 35 U.S.C. § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1, 3-10, 12, and 16-19 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention.

As discussed above, applicant merely broadly describes an inventive concept without providing clear illustration as to what is intended. One of ordinary skill in the art must clearly speculate as to what applicant considers as the invention. Accordingly, applicant's invention was not clearly described in a manner which would allow the ordinary artisan to make and use applicant's invention since the ordinary artisan can not readily determine what is applicant's invention.

9. Claims 6-10, 16, 17, and 19 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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Regarding claim 6, the amended language “at least one of the following” allows more than one of the listed devices to be provided on the strap. The use of more than one device on the strap is subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 16, the amended language “at least one of the following” allows the strap to be formed by a material having two or more of the materials listed. A material having two of more of the listed materials is subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 19, applicant fails to claim a securing mechanism in addition to the loops. Applicant’s disclosure as originally filed does not provide support for this now claimed broad subject matter. Applicant’s claims may be no broader than the supporting disclosure. A narrow disclosure will limit claim breadth.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1, 3-10, 12, and 16-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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As discussed above in detail, applicant has merely set forth an invention concept without providing clear means as to how this accomplished. One must speculate as to what applicant considers as the invention thereby rendering each of applicant's claims indefinite.

Each of the above mentioned claimed are further unclear in light of applicant's arguments provided at page 12, lines 3 et seq. Applicant states that the Swallow reference is not analogous to applicant's present invention. Applicant is invited to read the originally filed disclosure at page 2, line 25 through page 3, line 9 which clearly allows a device such as that found in Swallow. It is unclear on what grounds applicant may provide this "not analogous" argument since there is clearly no basis for this argument. In light of this argument, however, it raises doubt as to what applicant now considers as the invention. Accordingly, this rejection is applied.

Claim Rejections - 35 U.S.C. § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1, 3, 5-10, and 19, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Miller.

Regarding claim 1, the Miller reference discloses a strap (1) having a first strap end (see proximate lead line 14 in figure 2)m a securing mechanism (see lead lines 3 and 4 in figure 2) as claimed, and a retention loop (see lead line 7 in figure 1; see also figure 4) wherein the loop "can"

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slide be releasing/pushing on element 19 (see figure 3). The retention loop having a protruding member (see lead line 13) which mates with an aperture (see lead line 2, page 1, lines 85 and 86, and figure 3 in Miller) as claimed.

Regarding claim 5, the strap is “configured” to receive a device thereon if so desired (see MPEP 2111). Applicant is not claiming the device. See also claims 6-10.

Claim Rejections - 35 U.S.C. § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 4, 16, and 17, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller.

Regarding claim 4, although the protruding member is not on the strap and the aperture is not on the loop, it would have been an obvious matter of design choice to locate these parts as claimed, since applicant’s specification is silent that this particular claimed feature solves any problems or is for any particular purpose (see page 4, lines 10 and 11 of applicant’s disclosure as originally filed) and it would appear that the protrusion and aperture being located on the loop and strap, respectively, would perform equally as well on the Miller device.

Regarding claim 16, although the flexible strap in Miller is not formed from a material as claimed (see Miller at page 1, lines 79 et seq.), it would have been an obvious matter of design

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choice to form the strap of the claimed material, since applicant's specification is silent that this particular claimed feature solves any problems or is for any particular purpose (see page 3, lines 10-13 of applicant's originally filed disclosure) and it would appear that the strap being formed of woven metallic strands would perform equally as well on the Miller device.

16. Claims 12 and 18, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Wollman.

Regarding claim 12, although it is unclear if the Miller device includes a device thereon, attention is directed to the Wollman reference which discloses another bracelet (see lead lines 11 and 12) which have a watch case (W) attached thereto. It would have been obvious, if not already, to one having ordinary skill in the art at the time the invention was made to modify the bracelet in Miller to accept a watch case as, for example, illustrated in Wollman in order to increase the utility of the Miller device to be worn as a watch band/bracelet.

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Conway and Adams references each disclose other strap structures.

Response to Arguments


18. Applicant's arguments filed August 31, 2001 have been fully considered but they are not persuasive and moot in view of the grounds of rejection necessitated by applicant. Applicant's proposed amendments provided a means to more clearly distinguish what was intended as the invention in the originally filed application. The rejections are applied to what applicant now conceives as the invention which is not supported by the originally filed disclosure.

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19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Vidovich whose telephone number is (703) 308-1513.


Gregory Vidovich
Primary Examiner
Art Unit 3727
October 12, 2001

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.